# ASARCO



SENT BY CERTIFIED MAIL RETURN RECEIPT REQUESTED

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Montains Deparament of Environmental Quality Parmitting & Compliance Division (1974) April (1984) Bursal

January 19, 1999

William Potts
Permitting and Compliance Division
Air and Waste Management Bureau
Montana Department of Environmental Quality
P. O. Box 200901
Helena, Montana 59620-0901

ENVIRONMENTAL PROTECTION ACENCY

JAN 2 9 1999

MONTANA OFFICE

Dear Mr. Potts

This letter responds to your letter of December 29, 1998, regarding the November 4-5, 1998 compliance evaluation inspection of the Asarco East Helena Plant. We appreciate your willingness to extend by 10 days each of the two deadlines for providing information in response to certain requests set forth in your letter. This letter responds to your questions regarding management of "tank bottoms" and pertaining to two waste shipment for which Asarco did not have signed manifests indicating receipt by a designated facility at the time of your inspection. We plan to respond by January 29, 1999 to your request for information regarding sulfuric acid sales.

#### Hazardous Waste Manifests

Your letter requests submission of "[a]n exception report" regarding the efforts by Asarco to locate certain hazardous wastes for which signed manifests were missing at the time of your inspection. Subsequently, however, signed copies of these manifests were received from the disposal facility. Copies are attached to this letter. Accordingly, Asarco has undertaken no further effort "to locate the hazardous waste". In the future, Asarco will try to achieve meticulous compliance with the manifesting requirements, including the 35-day inquiry and exception reporting. Asarco has already developed and implemented standard operating procedures under our Asarco Management System to address this matter. Asarco anticipates that, due to the transportation delays, it may be continue to experience delays in receipt of signed manifests with respect to rail shipments of bulk loads of hazardous wastes.

#### Tank Bottom Management

Asarco cannot readily accept the contention of the Department that dewatering of the tank bottoms sediments prior to recycling constitutes "treatment" and that, therefore, the tank bottoms should be considered hazardous wastes. Under the current RCRA regulations, these tank bottoms are either "sludges" or "byproducts" that exhibit a characteristic of hazard and are

destine for legitimate reclamation. As such, they remain exempt from the definitions of solid and hazardous waste. In the preamble to its January 1985 rule on the definition of "solid waste," the Environmental Protection Agency expressly stated that dewatering of a wastewater treatment sludge by a primary smelting facility before return of the sludge to the smelting process for metal recovery constitutes reclamation. See 50 Fed. Reg. 614, 639-40(1985). Asarco is not aware of any Montana regulation or authoritative guidance that would compel a contrary conclusion.

Accordingly, Asarco does not believe that its management of these tank bottoms is subject to hazardous waste regulations, including those governing temporary accumulation. An exception is the speculative accumulation rule, which Asarco pays close attention. Also, we don't believe that our practice of allowing evaporative drying of these materials in outdoors bins results in a release of hazardous waste or hazardous waste constituents to the environment. Most, if not all, of the free liquid contained in the tank bottoms evaporate or are absorbed by the limerock. It is true that the Department observed some liquid escaping containment at an outdoor bin. Nonetheless, as your letter acknowledges, this liquid flows onto a concrete roadway. The plant routinely operates a road sweeper on such roadways and in all likelihood any residual metals in this seepage were captured by the sweeper. As such they were not being released to the soil, surface water, or groundwater.

Asarco acknowledges that these tank bottoms will lose their broad exemption from solid and hazardous waste status, if and when Montana adopts EPA's "LDR Phase IV" rule. In anticipation of this rule, and to address the concerns raise in your letter and inspection report, Asarco plans to immediately improve its management of these materials to ensure their dewatering and storage in units that will qualify under the "conditional exclusion" from the definition of solid waste propounded in the Phase IV rule.

In light of the fact that Asarco can demonstrate that the two waste shipments at issue in your manifest review have reached designated facilities, and in light of the foregoing discussion of tank bottom management, we respectfully suggest that no further enforcement action is appropriate.

Sincerely

Jon Nickel

Enclosure

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#### **ENERGY LABORATORIES, INC.**

P.O. BOX 30916 • 1120 SOUTH 27TH STREET • BILLINGS. MT 59107-0916 • PHONE (406) 252-6325 FAX (406) 252-6069 • 1-800-735-4489 • E-MAIL eli@energylab.com

#### LABORATORY REPORT

TO: ADDRESS:

Bill Potts

MT. Department of Environmental Quality

P.O. Box 200901 Helena, MT 59620 LAB NO.:

98-72334

DATE:

11/16/98 km

#### **WASTE ANALYSIS**

Asarco E. Helena ASARCO-Bin 98-SW Sampled 11/05/98 @ 1445 Submitted 11/09/98 Extracted 11/09/98

### TOXICITY CHARACTERISTIC LEACHING PROCEDURE EPA SW-846 METHOD 1311

CAS No.	Regulatory Limit, mg/l	Minimum Reporting Limit, mg/l	Result, mg/l in Extract	Spike Percent Recovery	Date and Time Analyzed	Analyst's <u>Initials</u>
7440-38-2	5.0	0.5	2.6	104	11/10/98 @ 1418	RLH
7440-39-3	100	10	<10	105	11/10/98 @ 1418	RLH
7440-43-9	1.0	0.1	124	91	11/12/98 @ 1557	RLH
7440-47-3	5.0	0.5	<0.5	95	11/10/98 @ 1418	RLH
7439-92-1	5.0	0.5	570	95	11/12/98 @ 1557	RLH
7439-97-6	0.2	0.02	< 0.02	85	11/12/98 @ 2337	LAB
7782-49 2	1.0	0.1	<0.1	92	11/12/98 @ 2337	LAB
7440-22-4	5.0	0.5	<0.5	82	11/10/98 @ 1418	RLH
	7440-38-2 7440-39-3 7440-43-9 7440-47-3 7439-92-1 7439-97-6 7782-49 2	CAS No. Limit, mg/l  7440-38-2 5.0  7440-39-3 100  7440-43-9 1.0  7440-47-3 5.0  7439-92-1 5.0  7439-97-6 0.2  7782-49 2 1.0	CAS No.         Regulatory Limit, mg/l         Reporting Limit, mg/l           7440-38-2         5.0         0.5           7440-39-3         100         10           7440-43-9         1.0         0.1           7440-47-3         5.0         0.5           7439-92-1         5.0         0.5           7439-97-6         0.2         0.02           7782-49 2         1.0         0.1	CAS No.         Regulatory Limit, mg/l         Reporting Limit, mg/l         Result, mg/l in Extract           7440-38-2         5.0         0.5         2.6           7440-39-3         100         10         <10	CAS No.         Regulatory Limit, mg/l         Reporting Limit, mg/l         Result, mg/l         Spike Percent Recovery           7440-38-2         5.0         0.5         2.6         104           7440-39-3         100         10         <10	CAS No.         Regulatory Limit, mg/l         Reporting Limit, mg/l         Result, mg/l         Spike Percent Recovery         Date and Time Analyzed           7440-38-2         5.0         0.5         2.6         104         11/10/98 @ 1418           7440-39-3         100         10         <10



#### **ENERGY LABORATORIES, INC.**

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#### LABORATORY REPORT

TO: ADDRESS:

**Bill Potts** 

MT. Department of Environmental Quality

P.O. Box 200901 Helena, MT 59620 LAB NO.: DATE:

98-72335 11/16/98 km

WASTE ANALYSIS

Asarco E. Helena ASARCO-Bin 98-NE Sampled 11/05/98 @ 1450 Submitted 11/09/98 Extracted 11/09/98

## TOXICITY CHARACTERISTIC LEACHING PROCEDURE EPA SW-846 METHOD 1311

CAS No.	Regulatory Limit, mg/l	Minimum Reporting <u>Limit, mg/l</u>	Result, mg/l in Extract	Spike Percent Recovery	Date and Time Analyzed	Analyst's <u>Initials</u>
7440-38-2	5.0	0.5	1.5	97	11/10/98 @ 1422	RLH
7440-39-3	100	10	<10	99	11/10/98 @ 1422	RLH
7440-43-9	1.0	0.1	100	85	11/12/98 @ 1601	RLH
7440-47-3	5.0	0.5	<0.5	94	11/10/98 @ 1422	RLH
7439-92-1	5.0	0.5	310	95	11/12/98 @ 1601	RLH
7439-97-6	0.2	0.02	<0.02	90	11/13/98 @ 0004	LAB
7782-49 2	1.0	0.1	0.1	98	11/13/98 @ 0004	LAB
7440-22-4	5.0	0.5	<0.5	78	11/10/98 @ 1422	RLH
	7440-38-2 7440-39-3 7440-43-9 7440-47-3 7439-92-1 7439-97-6 7782-49 2	CAS No. Limit, mg/l  7440-38-2 5.0  7440-39-3 100  7440-43-9 1.0  7440-47-3 5.0  7439-92-1 5.0  7439-97-6 0.2  7782-49 2 1.0	CAS No.         Limit, mg/l         Limit, mg/l           7440-38-2         5.0         0.5           7440-39-3         100         10           7440-43-9         1.0         0.1           7440-47-3         5.0         0.5           7439-92-1         5.0         0.5           7439-97-6         0.2         0.02           7782-49 2         1.0         0.1	CAS No.         Regulatory Limit, mg/l         Reporting Limit, mg/l         Result, mg/l in Extract           7440-38-2         5.0         0.5         1.5           7440-39-3         100         10         <10	CAS No.         Regulatory Limit, mg/l         Reporting Limit, mg/l         Result, mg/l         Spike Percent Recovery           7440-38-2         5.0         0.5         1.5         97           7440-39-3         100         10         <10	CAS No.         Regulatory Limit, mg/l         Reporting Limit, mg/l         Result, mg/l         Spike Percent Recovery         Date and Time Analyzed           7440-38-2         5.0         0.5         1.5         97         11/10/98 @ 1422           7440-39-3         100         10         <10



#### **ENERGY LABORATORIES, INC.**

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LABORATORY REPORT

TO: ADDRESS:

Bill Potts

MT. Department of Environmental Quality

P.O. Box 200901 Helena, MT 59620 LAB NO.:

98-72336

DATE:

11/16/98 km

#### WASTE ANALYSIS

Asarco E. Helena ASARCO-Bin 97B Sampled 11/05/98 @ 1455 Submitted 11/09/98 Extracted 11/09/98

#### TOXICITY CHARACTERISTIC LEACHING PROCEDURE EPA SW-846 METHOD 1311

Metals	CAS No.	Regulatory Limit, mg/l	Minimum Reporting <u>Limit, mg/l</u>	Result, mg/l in Extract	Spike Percent <u>Recovery</u>	Date and Time Analyzed	Analyst's <u>Initials</u>
Arsenic	7440-38-2	5.0	0.5	3.4	102	11/10/98 @ 1426	RLH
Barium	7440-39-3	100	10	<10	104	11/10/98 @ 1426	
Cadmium	7440-43-9	1.0	0.1	160	73	11/12/98 @ 1605	
Chromium	7440-47-3	5.0	0.5	<0.5	97	11/10/98 @ 1426	
Lead	7439-92-1	5.0	0.5	150	87	11/12/98 @ 1605	
Mercury	7439-97-6	0.2	0.02	<0.02	86	11/13/98 @ 0014	
Selenium	7782-49 2	1.0	0.1	<0.1	98	11/13/98 @ 0014	
Silver	7440-22-4	5.0	0.5	<0.5	79	11/10/98 @ 1426	

Lau Nos.: 98-72334 - 98-72336

Date: 09-NOV-98

Received by: Randa Hoelscher

Logged In by: Randa Hoelscher

#### SAMPLE CONDITION QA/QC REPORT

This report provides information about the condition of the sample(s) and associated sample custody information on receipt at the laboratory.

Chain of Custody Form		
Completed & Signed	Yes	Comments:
Chain of Custody Seal	<u>Yes</u>	Comments:
Intact	Yes	Comments:
Signature Match Chain of Custody vs. Seal	Yes	Comments:
Samples Received Cold	Yes	Comments:
Samples Received Within Holding Time	Yes	Comments:
Samples Received in Proper Containers	<u>Yes</u>	Comments:
Samples Received Properly Preserved	N/A	Comments:
		ested for proper preservation at the time of analysis.  amples are noted on the analytical parameter report pages.
·	_	
Who:	By:	Date/Time:
Method of Shipping: RR Trlwys 713733		
Additional comments:		

### HAZARDOUS MATERIALS SAMPLE ANALYSIS REQUEST

Responsibility Center No. 500
Date and Time Collected 1/38/98 2.48 3.00 g //
General Sample Description From contras - fact to the address
Reason for Collection Raphone Endunt Tropostor
Name HSAITE There
Address East Helagne
Location (if different than address)
Sample Number, Description and Preparation $\frac{\#I - B_{in} 93(s_{in})}{\#3 - B_{in} 93(s_{in})}$
#3-R1. 47B
Analysis Requested TCIP for midels . Cartin look model wises
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Lab Only
Name of Person Receiving Sample
Lab Sample Number
Date of Sample Receipt